



General Assembly

January Session, 2011

***Raised Bill No. 6639***

LCO No. 5135

\*05135\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

***AN ACT CONCERNING PRETRIAL DIVERSIONARY PROGRAMS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsections (a) to (c), inclusive, of section 54-56e of the  
2 general statutes are repealed and the following is substituted in lieu  
3 thereof (*Effective October 1, 2011*):

4 (a) There shall be a pretrial program for accelerated rehabilitation of  
5 persons accused of a crime or crimes or a motor vehicle violation or  
6 violations for which a sentence to a term of imprisonment may be  
7 imposed, which crimes or violations are not of a serious nature.

8 (b) The court may, in its discretion, invoke such program on motion  
9 of the defendant or on motion of a state's attorney or prosecuting  
10 attorney with respect to a defendant (1) who, the court believes, will  
11 probably not offend in the future, (2) who has no previous record of  
12 conviction of a crime or of a violation of section 14-196, subsection (c)  
13 of section 14-215, section 14-222a, subsection (a) of section 14-224 or  
14 section 14-227a, [(3) who has not been adjudged a youthful offender  
15 within the preceding five years under the provisions of sections 54-76b  
16 to 54-76n, inclusive,] and [(4)] (3) who states under oath, in open court

17 or before any person designated by the clerk and duly authorized to  
18 administer oaths, under the penalties of perjury that the defendant has  
19 never had such program invoked in the defendant's behalf, provided  
20 the defendant shall agree thereto and provided notice has been given  
21 by the defendant, on a form approved by rule of court, to the victim or  
22 victims of such crime or motor vehicle violation, if any, by registered  
23 or certified mail and such victim or victims have an opportunity to be  
24 heard thereon. [In determining whether to grant an application under  
25 this section with respect to a person who has been adjudged a youthful  
26 offender under the provisions of sections 54-76b to 54-76n, inclusive,  
27 more than five years prior to the date of such application, and  
28 notwithstanding the provisions of section 54-76l, the court shall have  
29 access to the youthful offender records of such person and may  
30 consider the nature and circumstances of the crime with which such  
31 person was charged as a youth.] Any defendant who makes  
32 application for participation in such program shall pay to the court an  
33 application fee of thirty-five dollars.

34 (c) This section shall not be applicable: (1) To any person charged  
35 with a class A felony, a class B felony, except a violation of section 53a-  
36 122 that does not involve the use, attempted use or threatened use of  
37 physical force against another person, or a violation of section 14-227a,  
38 subdivision (2) of subsection (a) of section 53-21, section 53a-56b, 53a-  
39 60d, 53a-70, 53a-70a, 53a-70b, [53a-71,] 53a-72a, 53a-72b, 53a-90a, 53a-  
40 196e or 53a-196f, (2) to any person charged with a crime or motor  
41 vehicle violation who, as a result of the commission of such crime or  
42 motor vehicle violation, causes the death of another person, (3) to any  
43 person accused of a family violence crime as defined in section 46b-38a  
44 who (A) is eligible for the pretrial family violence education program  
45 established under section 46b-38c, or (B) has previously had the  
46 pretrial family violence education program invoked in such person's  
47 behalf, (4) [to any person charged with a violation of section 21a-267 or  
48 21a-279 who (A) is eligible for the pretrial drug education program  
49 established under section 54-56i, or (B) has previously had the pretrial  
50 drug education program invoked in such person's behalf, (5)] unless

51 good cause is shown, to any person charged with a class C felony or a  
52 violation of section 53a-71, or [(6)] (5) to any person charged with a  
53 violation of section 9-359 or 9-359a.

54 Sec. 2. Subsection (b) of section 54-56i of the general statutes is  
55 repealed and the following is substituted in lieu thereof (*Effective*  
56 *October 1, 2011*):

57 (b) Upon application by any such person for participation in such  
58 program and payment to the court of an application fee of one  
59 hundred dollars and a nonrefundable evaluation fee of one hundred  
60 dollars, the court shall, but only as to the public, order the court file  
61 sealed provided such person states under oath, in open court or before  
62 any person designated by the clerk and duly authorized to administer  
63 oaths, under penalties of perjury, that such person has never had such  
64 program invoked in such person's behalf. A person shall be ineligible  
65 for participation in such pretrial drug education program if such  
66 person has previously participated in the eight-session, ten-session or  
67 fifteen-session drug education program, or substance abuse treatment  
68 program established under this section. [or the pretrial community  
69 service labor program established under section 53a-39c.] The  
70 evaluation and application fee imposed by this subsection shall be  
71 credited to the pretrial account established under section 54-56k.

72 Sec. 3. (NEW) (*Effective October 1, 2011*) (a) There shall be a  
73 supervised diversionary program for veterans accused of a crime or  
74 crimes or a motor vehicle violation or violations for which a sentence  
75 to a term of imprisonment may be imposed, which crimes or violations  
76 are not of a serious nature. The program shall be available to any  
77 veteran who demonstrates that he or she has service-related traumatic  
78 brain injury or post traumatic stress disorder.

79 (b) A veteran shall be ineligible for participation in such supervised  
80 diversionary program if such veteran (1) is ineligible to participate in  
81 the pretrial program for accelerated rehabilitation under subsection (c)  
82 of section 54-56e of the general statutes, as amended by this act, or (2)

83 has twice previously participated in such supervised diversionary  
84 program.

85 (c) Upon application by any veteran for participation in the  
86 program, the court shall, but only as to the public, order the court file  
87 sealed provided such veteran states under oath, in open court or before  
88 any person designated by the clerk and duly authorized to administer  
89 oaths, under penalties of perjury, that such veteran has not had such  
90 program invoked in such veteran's behalf more than once. Court  
91 personnel shall provide notice, on a form approved by rule of court, to  
92 any victim of such crime or motor vehicle violation, by registered or  
93 certified mail, that such veteran has applied for the program and that  
94 such victim has an opportunity to be heard by the court on the matter.

95 (d) The court shall refer such veteran to the Court Support Services  
96 Division for confirmation of eligibility and assessment of the veteran's  
97 mental health condition. The prosecuting attorney shall provide the  
98 division with a copy of the police report in the case to assist the  
99 division in its assessment. The division shall determine if the veteran is  
100 amenable to treatment and if appropriate services and treatment are  
101 available. If the division determines that the veteran is amenable to  
102 treatment and that appropriate services and treatment are available, it  
103 shall develop a treatment plan tailored to the veteran and shall present  
104 it to the court.

105 (e) Upon confirmation of eligibility and consideration of the  
106 treatment plan presented by the Court Support Services Division, the  
107 court may grant such application. If the court grants the application,  
108 such veteran shall be referred to the division. The division shall  
109 collaborate with the Department of Mental Health and Addiction  
110 Services and the Department of Veterans' Affairs to place such veteran  
111 in a program that provides appropriate community supervision,  
112 treatment and services. The veteran shall be subject to the supervision  
113 of a probation officer who has a reduced caseload and specialized  
114 training in working with veterans who have service-related traumatic

115 brain injury or post traumatic stress disorder.

116 (f) The Court Support Services Division shall establish policy and  
117 procedures to require division employees to notify any victim of the  
118 veteran admitted to the program of any conditions ordered by the  
119 court that directly affect the victim and of such veteran's scheduled  
120 court appearances with respect to the case.

121 (g) Any veteran who enters the program shall agree: (1) To the  
122 tolling of the statute of limitations with respect to such crime or  
123 violation; (2) to a waiver of such veteran's right to a speedy trial; and  
124 (3) to any conditions that may be established by the division  
125 concerning participation in the supervised diversionary program  
126 including conditions concerning participation in meetings or sessions  
127 of the program.

128 (h) If the Court Support Services Division informs the court that  
129 such veteran is ineligible for the program and the court makes a  
130 determination of ineligibility or if the division certifies to the court that  
131 such veteran did not successfully complete the assigned program, the  
132 court shall order the court file to be unsealed, enter a plea of not guilty  
133 for such veteran and immediately place the case on the trial list.

134 (i) If such veteran satisfactorily completes the assigned program,  
135 such veteran may apply for dismissal of the charges against such  
136 veteran and the court, on reviewing the record of such veteran's  
137 participation in such program submitted by the Court Support  
138 Services Division and on finding such satisfactory completion, shall  
139 dismiss the charges. If such veteran does not apply for dismissal of the  
140 charges against such veteran after satisfactorily completing the  
141 assigned program, the court, upon receipt of the record of such  
142 veteran's participation in such program submitted by the Court  
143 Support Services Division, may on its own motion make a finding of  
144 such satisfactory completion and dismiss the charges. Except as  
145 provided in subsection (j) of this section, upon dismissal, all records of  
146 such charges shall be erased pursuant to section 54-142a of the general

147 statutes. An order of the court denying a motion to dismiss the charges  
148 against a veteran who has completed such veteran's period of  
149 probation or supervision or terminating the participation of a veteran  
150 in such program shall be a final judgment for purposes of appeal.

151 (j) The Court Support Services Division shall develop and maintain  
152 a database of information concerning veterans admitted to the  
153 supervised diversionary program that shall be available to the state  
154 police and organized local police departments for use by sworn police  
155 officers when responding to incidents involving such veterans. Such  
156 information shall include the veteran's name, date of birth, Social  
157 Security number, the violation or violations with which the veteran  
158 was charged, the dates of program participation and whether a deadly  
159 weapon or dangerous instrument was involved in the violation or  
160 violations for which the program was granted. The division shall enter  
161 such information in the database upon such veteran's entry into the  
162 program, update such information as necessary and retain such  
163 information for a period of five years after the date of such veteran's  
164 entry into the program.

165 (k) The Court Support Services Division, in collaboration with the  
166 Department of Mental Health and Addiction Services and the  
167 Department of Veterans' Affairs, shall develop standards and oversee  
168 appropriate treatment programs to meet the requirements of this  
169 section and may contract with service providers to provide such  
170 programs.

171 (l) The Court Support Services Division shall retain the police report  
172 provided to it by the prosecuting attorney and the record of  
173 supervision including the dates of supervision and shall provide such  
174 information to the court, prosecuting attorney and defense counsel  
175 whenever a court is considering whether to grant an application by  
176 such veteran for participation in the supervised diversionary program  
177 for a second time.

178 Sec. 4. Section 54-56m of the general statutes is repealed and the

179 following is substituted in lieu thereof (*Effective October 1, 2011*):

180 (a) There shall be established, in [the geographical area of the  
181 Superior Court for the towns of Berlin, New Britain, Newington,  
182 Rocky Hill and Wethersfield, the geographical area of the Superior  
183 Court for the towns of Bethlehem, Middlebury, Naugatuck, Prospect,  
184 Southbury, Watertown, Wolcott, Woodbury and Waterbury, and such  
185 other geographical areas of the Superior Court as the Chief Court  
186 Administrator may designate] all geographical areas of the Superior  
187 Court, programs of mediation wherein the court may refer a criminal  
188 prosecution to mediation for resolution. For the purposes of this  
189 section, "mediation" means the process where two or more persons to a  
190 dispute agree to meet with an impartial third party to work toward a  
191 resolution of the dispute which is satisfactory to all parties in  
192 accordance with principles of mediation commonly used in labor  
193 management disputes.

194 (b) If mediation is successful, the prosecuting authority, upon  
195 recommendation of the family relations counselor or mediation officer,  
196 shall enter a nolle prosequi and the prosecution shall be terminated  
197 and the defendant released from custody.

198 (c) If mediation is unsuccessful or the defendant fails to comply  
199 with the terms of any mediation agreement, the family relations  
200 counselor or mediation officer shall notify the prosecuting authority  
201 and prosecution of the defendant may be initiated.

202 (d) There shall be established, in [the two geographical areas of the  
203 Superior Court enumerated in subsection (a) of this section and in such  
204 other geographical areas of the Superior Court as the Chief Court  
205 Administrator may designate] all geographical areas of the Superior  
206 Court, units to provide mediation services in cases referred by the  
207 court to mediation. In addition, mediation services in cases referred by  
208 the court to mediation may also be provided by private agencies under  
209 contract with the Judicial Department.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	54-56e(a) to (c)
Sec. 2	<i>October 1, 2011</i>	54-56i(b)
Sec. 3	<i>October 1, 2011</i>	New section
Sec. 4	<i>October 1, 2011</i>	54-56m

***Statement of Purpose:***

To revise the eligibility requirements for certain pretrial diversionary programs, establish a pretrial diversionary program for veterans and expand mediation programs in criminal prosecutions to all geographical area court locations.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*